REMARKS

The application has been reviewed in light of the Office Action dated July 10, 2007. Claims 1-8, 12-17, and 22-27 are pending in the application. Applicant reserves the right to pursue the original claims and other claims in this and other applications.

The specification stands objected to and has been amended as suggested in the Office Action. No new matter has been added. Applicant respectfully requests that the objection to the specification be withdrawn.

Claims 1-2, 12, and 22 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claim 18 of co-pending application No. 11/280,208. Applicant respectfully traverses the rejection. Application No. 11/280,208 is still pending at this time and its claims, as well as those of the present application, are subject to change and are subject to various objections and rejections. Thus, Applicant does not elect to file a Terminal Disclaimer at this time and, in any case, request that this rejection be held in abeyance until all non-double patenting rejections and objections are overcome in both cases.

Furthermore, the claims in the present application and the '208 application differ at least in that claim 1 recites a "first step of outputting, in response to an initialization request for initializing the information recording medium, termination information indicative of termination of the initialization before said initialization starts," whereas claim 18 of the '208 application recites "interrupting the background formatting when a host computer requests to store data in said rewritable recording medium; storing said data in said rewritable recording medium after interrupting the background formatting." Applicant respectfully submits that claim 18 of the '208 application does not disclose, teach, or suggest "outputting ... termination information indicative of

termination of the initialization before said initialization starts," nor does the Office Action specifically assert that this limitation is obvious in view of the '208 application.

The Office Action refers only to the "basic concept of background formatting and interrupting background formatting" without any specific reference to any limitation of any claim of the '208 application or the present application. Applicant, therefore, respectfully requests withdrawal of the provisional rejection. Nonetheless, Applicant reserves the right to further respond to the rejection if necessary when it is no longer a "provisional" rejection.

Claims 1-8, 12-17, and 22-27 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Sasaki I (EP 1 282 128 A1). Claims 1-2, 4-6, 8, 12-17, 22-23, and 25-27 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Sasaki II (EP 1 229 534 A2). These rejections are respectfully traversed.

A Declaration is being submitted herewith, evidencing that Sasaki I and Sasaki II describe Applicant's own work. The Declaration should overcome the rejection of claims 1-8, 12-17, and 22-27 with respect to Sasaki I, and claims 1-2, 4-6, 8, 12-17, 22-23, and 25-27 respect to Sasaki II. See M.P.E.P. §§ 715.01(a) and 2136.05. Sasaki I is not prior art for claims 1-8, 12-17, and 22-27, and Applicants respectfully request that the 35 U.S.C. § 102(a) rejection of claims 1-8, 12-17, and 22-27 be withdrawn and the claims allowed. Sasaki II is not prior art for claims 1-2, 4-6, 8, 12-17, 22-23, and 25-27, and Applicants respectfully request that the 35 U.S.C. § 102(a) rejection of claims 1-2, 4-6, 8, 12-17, 22-23, and 25-27 be withdrawn and the claims allowed.

Claims 3, 7, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sasaki II in view of Hashimoto (EP 0 899 735 A2). This rejection is respectfully traversed. Claims 3, 7, and 24 depend, respectively, from claims 1 and 22, and are

patentable at least for the reasons mentioned above, and on their own merits. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 3, 7, and 24 be withdrawn and the claims allowed.

Claims 1-8, 12-17, and 22-27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Itaru (JP 04-178965). This rejection is respectfully traversed.

Claim 1 recites, *inter alia*, "a first step of outputting termination information indicative of termination of the initialization of an information recording medium before said initialization starts; and a second step of starting the initialization of the information recording medium at a predetermined timing after the output of the termination information" (emphasis added). Claims 12 and 22 recite similar limitations. Applicants respectfully submit that Itaru does not disclose these limitations.

To the contrary, Itaru discloses that "the driving device 9 is discharged once prior to the initialization processing." Page 10, ln. 2-4. Itaru further discloses that "the storage medium 1 is not initialized, even by reloading the discharged storage medium 1." Page 10, ln. 14-15. Therefore, the initialization is never started, not even after a predetermined time. Applicants respectfully submit that Itaru does not disclose, teach, or suggest starting the initialization at a predetermined timing after the output of the termination information, as recited in claims 1, 12, and 22.

Since Itaru does not disclose all of the limitations of claims 1, 12, and 22, claims 1, 12, and 22 are not anticipated by Itaru. Claims 2-8, 13-17, and 23-27 depend, respectively, from independent claims 1, 12, and 22, and are patentable at least for the reasons mentioned above, and on their own merits. In addition, the Office Action admits at page 12 that Itaru does not teach or suggest all limitations of claim 8.

Applicants respectfully request that the 35 U.S.C. § 102(b) rejection of claims 1-8, 12-17, and 22-27 be withdrawn and the claims allowed.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Itaru. This rejection is respectfully traversed. Claim 8 depends from claim 1 and is patentable at least for the reasons mentioned above, and on its own merits. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claim 8 be withdrawn and the claim allowed.

In view of the above, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

By _____

Mark J. Thronson
Registration No.: 33,082
Rachael Lea Leventhal
Registration No.: 54,266
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403
(202) 420-2200
Attorneys for Applicant